IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 262/2007

BADRI NARAYAN Vs. STATE OF RAJASTHAN

DATE: 11.04.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. Sudesh Bansal for the accused-petitioner.
Mr. B.S. Chhaba, Public Prosecutor for the State.
Mr. Anoop Dhand for the complainant.

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The instant criminal revision petition under Section 397 and 401 Cr.P.C. is preferred by the accused-petitioner against the order dated 13.11.2006 passed by the Juvenile Justice Board, Jaipur in Criminal Case No. 449/2006, whereby the accused-petitioner has been held major.

Learned counsel for the accused-petitioner challanged the impugned order on the ground that the observations made by the Juvenile Justice Board are purely on the basis of school certificate whereas the medical opinion is otherwise. As per the medical opinion, the petitioner is juvenile, whereas considering the school certificate the Juvenile Justice Board has declared the petitioner major without holding inquiry.

He further submits that as per Section 14 of the Juvenile Justice (Care and Protection of Children) Act, 2000 (for short 'the Act of 2000'), inquiry by Board regarding juvenile is mandatory and without holding inquiry, the Juvenile Justice Board cannot arrive at a conclusion that the accused-petitioner is major.

Learned counsel for the accused-petitioner placed reliance on the judgment rendered by the co-ordinate Bench of this Court in the case of **Surendra Kumar Vs. State of Rajasthan, reported in 2002 WLC (Raj.) UC 676,** wherein this Court has held that enquiry for determining age of petitioner- Trial Judge not making enquiry- Order holding petitioner to be not less than 18 years without holding enquiry unsustainable.

Per contra, learned counsel appearing for the complainant submits that the petitioner has got alternative efficacious remedy under Section 52 of the Act of 2000 and further submits that as per the judgment rendered by this Court in the case of **Rajan & Ors. Vs. The State of Rajasthan, reported in 2002(1) Cr.L.R.(Raj.) 778** considering the ratio decided in the case of **Bhoop Ram Vs. State of U.P., AIR 1989 SC 1329,** school certificate is the best evidence and so far as the medical certificate is concerned, the same is based on estimate and possibility of error cannot be ruled

out.

Another view is taken by the Hon'ble Supreme Court in the case of **Ram Deo Chauhan alias Raj Nath Chauhan Vs. State of Assam, reported in AIR 2001 SC 2231,** wherein the Hon'ble Supreme Court has held that entry in school register showed that accused was juvenile on relevant date- School register, however, not shown to be maintained by public servant in discharge of his official duty or any other competent authority- Entry in school register, cannot be accepted as positive proof regarding date of birth of accused-petitioner.

Without entering into the controversy involved in this case as the learned counsel for the complainant submits that as per Section 52 of the Act of 2000, which provides 'Appeals', the accused-petitioner has got alternative efficacious remedy and without availing the alternative efficacious remedy under Section 52 of the Act of 2000, the petitioner has filed this revision petition and that too after a delay of 29 days.

It is also contended on behalf of the complainant that challan has already been filed against the accused-petitioner treating him as major.

Since the petitioner has got alternative efficacious remedy as provided under Section 52 of the Act of 2000, therefore, the present revision petition

filed by accused-petitioner Badri Narayan is not maintainable. No interference whatsoever is required by this Court. The accused-petitioner is at liberty to redress his grievance before the Court of Sessions.

Consequently, the revision petition stands dismissed.

(K.S. RATHORE),J.

/KKC/